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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/853,825	05/10/2001	Todd A. Schelling	10559-416001/P10374	6463

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INTEL CORPORATION
c/o INTELLEVATE, LLC
P.O. BOX 52050
MINNEAPOLIS, MN 55402

EXAMINER

PYZOCHA, MICHAEL J

ART UNIT	PAPER NUMBER
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2137

MAIL DATE	DELIVERY MODE
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07/25/2007

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No.	Applicant(s)	
	09/853,825	SCHELLING ET AL.	
	Examiner	Art Unit	
	Michael Pyzocha	2137	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 20 June 2007.
- 2a) ☒ This action is FINAL. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1,3-11,13-17 and 19-32 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1,3-11,13-17 and 19-32 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

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DETAILED ACTION

1. Claims 1, 3-11, 13-17, and 19-32 are pending.
2. Response filed 06/20/2007 has been received and considered.

Claim Rejections - 35 USC § 103

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

4. Claims 1, 3, 5, 6, 8, 10, 13, 16, 17, 19, 21, 22, 24-30, and 32 are rejected under 35 U.S.C. 103(a) as being unpatentable over Olarig et al. (US 6009524) in view of Mohammed et al. (US 6374357).

As per claims 1, 8, 17, 24, and 27, Olarig et al. discloses receiving, at a BIOS in a system, a message from an authorized party, wherein the authorized party is selected from a group of authorized parties consisting of a manufacturer, an original equipment manufacturer, and a lessor (see column 4 lines 1-15); authenticating that the message has been sent by the authorized party using a digital signature in the message and a public key

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storing in non-volatile storage communicatively coupled to the BIOS (see column 4 lines 16-25); when the message has been successfully authenticated, controlling a state of an optional feature of a system resource in the system using the BIOS, according to the message, wherein the message comprises information to determine the optional feature, and wherein the message further comprises a digital signature used for authenticating, and when the message fails to authenticating, then discarding the message (see column 4 lines 1-34).

Olarig et al. further discloses the use of a second digital signature for further verification, but fails to disclose the use of a GUID for verification.

However, Mohammed et al. teaches the use of a GUID (see column 14 lines 42-60).

At the time of the invention it would have been obvious to a person of ordinary skill in the art to use a GUID in the updating system of Olarig et al.

Motivation to do so would have been to verify a permit to allow usage of the application (see Mohammed et al. column 14 lines 42-60).

As per claims 3, 13, 19, the modified Olarig et al. and Mohammed et al. system discloses storing the message in a secure non-volatile location (see Olarig et al. column 4 lines 16-25).

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As per claims 5, 21, 25, the modified Olarig et al. and Mohammed et al. system discloses splicing the content of the message into an execution path of the BIOS, wherein the splicing comprises at least one of modifying the BIOS or erasing a portion of the BIOB, in response to the message (see Olarig et al. column 1 lines 18-33).

As per claims 6, 16, 22, 28, 26 and 30, the modified Olarig et al. and Mohammed et al. system discloses receiving the message via a network transmission (see Olarig et al. column 3 lines 41-51).

As per claims 10 and 32, the modified Olarig et al. and Mohammed et al. system discloses the system has the hardware to perform the functionality of the method (see Olarig et al. figure 1).

As per claim 29, the modified Olarig et al. and Mohammed et al. system discloses rebooting the system to enable BIOS control of the feature (see Olarig et al. column 4 lines 26-34).

5. Claims 4, 14, 20 are rejected under 35 U.S.C. 103(a) as being unpatentable over the modified Olarig et al. and Mohammed et al. system as applied to claims 3, 13, and 19 above, and further in view of Dayan et al. (US 5230052).

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As per claims 4, 14, 20, the modified Olarig et al. and Mohammed et al. system fails to disclose the location is a remote storage.

However, Dayan et al. teaches storing BIOS information remotely (see column 4 lines 3-13).

At the time of the invention it would have been obvious to a person of ordinary skill in the art to store the BIOS data of the modified Olarig et al. and Mohammed et al. system remotely.

Motivation to do so would have been to allow all computers connected to a LAN to be configured the same (see Dayan et al. column 3 lines 54-68).

6. Claims 7, 15, 23 are rejected under 35 U.S.C. 103(a) as being unpatentable over the modified Olarig et al. and Mohammed et al. system as applied to claims 1, 8, 17 above, and further in view of Obata (US 20010025312).

As per claims 7, 15, 23, the modified Olarig et al. and Mohammed et al. system fails to disclose updating a feature set of the system BIOS according to the message, wherein the feature set comprises a status of features of the system.

However, Obata teaches such a feature set (see Figure 2).

At the time of the invention it would have been obvious to a person of ordinary skill in the art to include a feature set in the modified Olarig et al. and Mohammed et al. system.

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Motivation to do so would have been the updating a feature set provides a convenient way to check the status of resources of the system.

7. Claims 9 and 11 are rejected under 35 U.S.C. 103(a) as being unpatentable over the modified Olarig et al. and Mohammed et al. system as applied to claim 8 above, and further in view of Feldbau et al. (US 6182219).

As per claims 9 and 11, the modified Olarig et al. and Mohammed et al. system fails to disclose storing the authentication information in a write-once non-volatile unit.

However, Feldbau et al. teaches such storage of authentication information (see column 7 lines 41-58).

At the time of the invention it would have been obvious to a person of ordinary skill in the art to store the authentication information of the modified Olarig et al. and Mohammed et al. system in a write-once unit.

Motivation to do so would have been to prevent the information from being changed (see Feldbau et al. column 7 lines 41-58).

8. Claim 31 is rejected under 35 U.S.C. 103(a) as being unpatentable over the modified Olarig et al. and Mohammed et al. system as applied to claim 27 above, and further in view of Nowlin, Jr. (US 5953536).

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As per claim 31, the modified Olarig et al. and Mohammed et al. system fails to disclose the message includes a DLL that is stored in non-volatile storage coupled to the BIOS where the DLL is loaded by the BIOS at run-time.

However, Nowlin, Jr. teaches such a DLL (see column 6 lines 44-54).

At the time of the invention it would have been obvious to a person of ordinary skill in the art to include a DLL with the message of the modified Olarig et al. and Mohammed et al. system.

Motivation to do so would have been to allow more than one application can use the resource at the same time (see Mohammed et al column 6 lines 44-54).

Response to Arguments

9. Applicant's arguments filed 06/20/2007 have been fully considered but they are not persuasive. Applicant argues that Olarig et al. fails to teach that the BIOS receives a message from an authorized party; Olarig et al. fails to teach storing the public key in non-volatile storage; Olarig et al. fails to teach discarding unauthenticated messages; Mohammed fails to teach a GUID associated with the system; Dayan et al. fails to teach writing the message into a remote secure non-volatile

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location; and Nowlin Jr. fails to teach the DLL as claimed but rather teaches away from such limitation.

With respect to Applicant's argument that Olarig et al. fails to teach that the BIOS receives a message from an authorized party, the authorized party (i.e. the vendor) sends the BIOS message (i.e. the update) to an administrator which forwards it to the target where the BIOS update is installed. Therefore, the authorized party sends the message, through the administrator, to the target node's BIOS. Since a direct communication between the authorized party and BIOS is not claimed, the passing of the BIOS update of Olarig from the authorized party through the administrator to the BIOS still anticipates the claimed limitation.

With respect to Applicant's argument that Olarig et al. fails to teach storing the public key in non-volatile storage, in column 4 lines 44-54 Olarig discloses that the public keys are stored in flash memory. Since flash memory is a type of non-volatile memory Olarig teaches storing the public key in non-volatile storage.

With respect to Applicant's argument that Olarig et al. fails to teach discarding unauthenticated messages, in a system where authentication occurs accepting unauthenticated messages would defeat the purpose of authenticating the messages and ruin

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any benefit of authentication. Therefore, Olarig must discard the unauthenticated messages.

With respect to Applicant's argument that Mohammed fails to teach a GUID associated with the system, Olarig teaches verifying that the system is the intended recipient of the message using information stored in non-volatile memory (see Olarig column 4 lines 9-11 and 44-54). Mohammed was relied upon for the teaching of a GUID for verification. Therefore, the combination of Olarig and Mohammed teach the claimed limitation. Furthermore, based on the definition of a GUID (taken from the Microsoft Computer Dictionary), "Such an identifier is unique because it contains a timestamp and a code based on the computer network address" it is clear that the GUID is associated with the system and not merely the application.

With respect to Applicant's argument that Dayan et al. fails to teach writing the message into a remote secure non-volatile location, in the Dayan system a remote memory storage maintains a BIOS for download to stations on the LAN. For the BIOS to be stored in the remote non-volatile storage, the BIOS (or BIOS update) must be sent to the remote storage via a message. Therefore, Dayan combined with Olarig and Mohammed teach writing the message into a remote secure non-volatile location.

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With respect to Applicant's argument that Nowlin Jr. fails to teach the DLL as claimed but rather teaches away from such limitation Nowlin Jr. teaches that the DLL is needed for the OS to communicate with the BIOS, therefore when the device driver (the DLL) is placed into the load configuration it is placed in memory coupled to the BIOS in order to be loaded on runtime by the BIOS because the BIOS sets up all basic input and output of the computer system. Therefore, Nowlin Jr. teaches the claimed limitation rather than teaching away.

Conclusion

10. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event,

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however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Michael Pyzocha whose telephone number is (571) 272-3875. The examiner can normally be reached on 7:00am - 4:30pm first Fridays of the bi-week off.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Emmanuel Moise can be reached on (571) 272-3865. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.


EMMANUEL L. MOISE
SUPERVISORY PATENT EXAMINER

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

MJP